IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 2539 of 2007()

CRIME NO.51/06 OF POZHIYOOR POLICE STATION

PETITIONER: 1ST ACCUSED

SUNIL.Y, S/O YASGAPPAN, AGED 32 YEARS,
VARATHATTU VEEDU, PARIYALAM, KILATHOOR,
VELLAKKADA P.O., THIRUVANANTHAPURAM.

BY ADV. SRI.S.RAJEEV
SRI.K.K.DHEERENDRAKRISHNAN

RESPONDENTS: COMPLAINANT

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1. SHEELA RANI, AGED 29 YEARS,
D/O RAJAPPAN, KUMBARAVILA VEEDU,
AIJIRA P.O., PARASSALA,
THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.
(CRIME NO.51 OF 2006 OF POZHIYOOR POLICE STATION)

BY P.P. SRI.M.S. BREEZ.
BY ADV. SRI.VINOD KUMAR.C

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No.2539 OF 2007

Dated this the 8th day of August, 2007

ORDER

The petitioner faces indictment in a prosecution under Sec.498A of the IPC. The de facto complainant is the 1st respondent – his wife. Cognizance has been taken on the basis of a final report submitted by the police. The matter is pending before the learned Judicial Magistrate of the First Class-II, Neyyattinkara, as C.C.No.650/06.

2. The petitioner has come to this Court with a plea that he and the 1st respondent have settled their disputes amicably and that consequent to the harmonious settlement between the parties, the continuation of the prosecution has become unnecessary now. The 1st respondent has entered appearance through counsel. The learned counsel for the 1st respondent also vouches for the fact that the disputes between the parties have been settled amicably and that the 1st respondent does

not now want to proceed against the petitioner. I am satisfied from the submissions made at the Bar by the learned counsel for the contestants, from the averments made in the Crl.M.C. and from an affidavit sworn before a Notary, copy of which is produced as Annexure-III, that the parties have settled their disputes amicably. If legally permissible, I am satisfied that the settlement and composition can be accepted.

3. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submits that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be a fetter to the invocation of such power.

4. I am satisfied that this is an eminently fit case where the harmonious settlement of the disputes between the spouses can be accepted and the proceedings brought to premature termination.

5. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.650/06 pending before the Judicial Magistrate of the First Class-II, Neyyattinkara, against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge